

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KATHLEEN A. MARTIN,

Plaintiff,

v.

MERCK & CO., INC., et al.

Defendants.

CIVIL ACTION No. 05-11716-MLW

**MOTION BY DEFENDANT MERCK & CO., INC.
TO STAY ALL PROCEEDINGS PENDING TRANSFER DECISION
BY THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

Defendant Merck & Co., Inc. (“Merck”) hereby moves this Court to stay all proceedings in this action pending a ruling from the Judicial Panel on Multidistrict Litigation (the “Panel”) on the prospective transfer of the case to *In re VIOXX Prods. Liab. Litig.* (MDL-1657), the multi-district litigation (“MDL”) proceeding that has been established in the Eastern District of Louisiana, in Judge Eldon E. Fallon’s session, to coordinate all product liability cases involving alleged health risks from VIOXX® (the “VIOXX® cases”).

The case raises legal and factual issues that are the same, in substance, as those of VIOXX® cases brought nationwide and since transferred to Judge Fallon’s MDL proceeding for coordination. Pending the Panel’s inevitable determination that this case will transfer to the MDL Court, a stay of proceedings is necessary and appropriate to achieve the judicial economies that underlie the MDL statute, 28 U.S.C. § 1407.

For the above stated reasons, and for those advanced in the accompanying Declaration of Lucy Fowler and Memorandum of Law, Merck requests that the Court grant its motion to stay all

proceedings in this case pending the Panel's ruling on transfer of this case to the MDL Court for coordinated pretrial management.

MERCK & CO., INC.
By its attorneys:

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Dated: August 30, 2005

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing document was served on August 30, 2005 electronically upon:

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